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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re C.L. et al., Persons Coming  
Under the Juvenile Court Law.

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

RAFAEL L.,

Defendant and Appellant.

B291195

(Los Angeles County  
Super. Ct. No. 18CCJP01983B-C)

APPEAL from orders of the Superior Court of Los Angeles  
County, D. Brett Bianco, Judge. Affirmed in part; dismissed in  
part.

Michael D. Randall, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, Tracey F. Dodds, Principal Deputy County Counsel, for Plaintiff and Respondent.

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Father Raphael L. challenges the juvenile court's order declaring children C.L. (age 13) and F.L. (age 12) dependents of the court due to Father's sexual abuse of both girls. (Welf. & Inst. Code, § 300, subds. (b), (d) & (j).)<sup>1</sup> He contends the court's jurisdiction findings were not supported by substantial evidence. He also appeals from the court's subsequent order terminating jurisdiction.

We affirm the disposition order because substantial evidence supported the finding that Father sexually abused both his daughters. We dismiss Father's appeal from the order terminating jurisdiction; Father lacks standing to appeal from this order given that his enhancement services had been terminated upon his request, and he has not demonstrated that any of his own rights or interests were substantially affected by the termination of jurisdiction.

## **FACTUAL AND PROCEDURAL BACKGROUND**

*A. Evidence Presented at Jurisdiction/Disposition Hearing*  
C.L. and F.L. came to the attention of the Los Angeles County Department of Children and Family Services

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<sup>1</sup> All further undesignated references are to the Welfare and Institutions Code.

(Department) on January 15, 2018, when the Department received a referral alleging Father had sexually abused C.L. J.O., the older half-sister of C.L. and F.L. who has a different father, told the responding emergency social worker that she discovered text messages from F.L. to a friend disclosing sexual abuse by Father. When J.O. confronted her, F.L. admitted Father had sexually abused her when she was in the fourth grade. F.L. stated Father had touched her vagina, but F.L. did not want to provide any other details.

J.O. also questioned C.L. and asked her if Father had sexually abused her. C.L. initially denied any abuse but later admitted Father had touched her when she was younger as well. C.L. told J.O. Father had touched her buttocks on two occasions, but she did not elaborate further.

Mother, Maria O., denied any awareness of sexual abuse by Father. She relayed that when she questioned F.L. after her disclosure to her sister, F.L. told her that Father had touched her buttocks and vagina but was uncomfortable in discussing the details. C.L. told Mother that Father touched C.L.'s buttocks when she was in the fourth grade.

Mother stated she had separated from Father when she was pregnant with F.L. She stated the girls would usually visit with Father on Tuesdays after school for a few hours and on Sundays from approximately 10:00 a.m. to 4:00 p.m. However, for the past few months, C.L. had refused to visit Father.

Law enforcement separately interviewed each of the girls on January 13, 2018, with each denying any knowledge that Father had sexually abused the other.

During C.L.'s interview with law enforcement, C.L. stated Father sexually abused her when she was in first grade, and she

stated there were approximately four separate incidents. C.L. described an incident where she was lying on the bed and Father approached her, unzipped her pants, and lowered her pants and underwear to her knees. Father inserted the tip of his penis in her vagina; he tried but could not insert it further. C.L. did not remember if his penis was flaccid or erect. She was afraid and stared at the ceiling while this occurred.

C.L. described another incident when she was in third or fourth grade and Father offered to give her a massage. He told her to lay down on her stomach and then placed his hand on her back, under her clothing. He then lowered his hand under her pants and began pressing her upper buttocks. C.L. kept moving her body from side to side in an attempt to remove his hand from her back and buttocks. C.L. stated she had refused to visit with Father for approximately six months because he was controlling, and she did not like the way he treated her.

F.L. told the interviewer she had recently told her best friend via text messages that Father sexually abused her. She had not previously disclosed the abuse to anyone because she was embarrassed and ashamed, and she was afraid of what would happen if anyone found out.

F.L. said the first incident occurred when she was in fourth grade, approximately two years earlier. She said she was visiting Father's home and no one else was there. While she was lying on the bed in the home, Father pulled her pants and underwear down and thrust his penis between her buttocks for approximately 10 minutes. She did not recall if his penis was flaccid or erect. She denied that he penetrated her anus. She told Father to stop, but he did not.

F.L. reported that a second incident occurred approximately one month later, again at Father's home while she was lying on the bed. During this incident, Father lowered her pants and underwear and digitally penetrated her vagina for about three minutes. F.L. said it hurt. Father then pulled her clothing back up and walked away.

Forensic medical examinations of both girls were conducted on January 29, 2018. The results of both their physical examinations were normal.

During C.L.'s examination, she told the examiner that Father first touched her when she was five years old. He put his "private part" inside her vagina, which felt uncomfortable and "hurt a lot." The last time he touched her was when she was in fourth grade, when he started to massage her back and then touched her buttocks and put his hands under her shirt. She stated, "I forgive him."

During her examination, F.L. disclosed that during visits to Father's home when she was 10 and 11 years old, Father sexually abused her while C.L. was in the home. Father touched her private parts with his penis and his hands after removing her pants and underwear. He also put his penis inside her. She said, "I felt bad"; and, "It hurt." F.L. felt afraid of Father. She stated Father sexually abused her approximately three or four times.

When the social worker met with Father on March 19, 2018, he denied sexually abusing either daughter. He blamed Mother and J.O. for fabricating the allegations in order to keep his daughters away from him. He said J.O. was upset with him because he had expressed he did not want his daughters to attend J.O.'s baby shower, as she was only 17 years old and was pregnant with an adult man's child.

When the male dependency investigator interviewed the girls on April 23, 2018, they were embarrassed and felt too uncomfortable to speak about the allegations. They indicated they would be willing to speak with a female therapist and also were willing to testify.

C.L. confirmed the allegations in the petition were correct but refused to provide details. She told the investigator she feared Father but did not have any ill feelings towards him.

F.L. became teary eyed when the investigator read the allegations to her, and she refused to discuss them. She stated she was “a little” afraid of Father and stressed she did not want to visit him.

At the May 9, 2018 combined jurisdiction and disposition hearing, both C.L. and F.L. testified. C.L. testified that she did not remember exactly when Father sexually abused her, but she thought she was about four years old. She stated the last two incidents took place when she was in third or fourth grade.

C.L. testified that during the first incident, Father pulled her pants and underwear down partway and touched her. During the fourth grade incidents, Father offered to give her a back massage, and then “he started going down to where my butt – and I started moving because I felt really uncomfortable. He said that was part of it. But I didn’t like it.” She stated she did not remember if Father inserted his penis in her vagina, but she did remember feeling his penis in her buttocks, on more than one occasion. C.L. testified that she was very scared of Father and believed her fear had caused her to have an anxiety problem.

On cross-examination, C.L. stated her parents did not have a good relationship, and she did not like that Father talked badly

about Mother. She denied ever witnessing Father sexually abuse F.L.

F.L. testified that Father sexually abused her two or three times around the time she was in fourth grade. On one occasion, while she was in bed and her sister was also in the bed sleeping, Father touched her chest and touched her buttocks with his hand and his penis. His penis went inside her buttocks area. It was “a little” painful. Father told her not to tell Mother or anyone else. She remembered two similar events followed. F.L. testified she feared Father.

#### *B. Jurisdiction and Disposition Findings*

After the trial, the juvenile court found pursuant to subdivisions (b), (d), and (j) of section 300 that Father raped C.L. and sexually abused F.L. by fondling her vagina and buttocks with his penis and fondling her chest area. The court found both girls’ testimony “very, very credible” and found no evidence of any motive to make up the claims that Father molested them.

The court ordered removal of the girls from Father’s physical custody<sup>2</sup> and released them to Mother’s custody. It ordered the Department to provide referrals for counseling for the girls with licensed therapists specializing in sexual abuse. The Department was ordered to provide Mother referrals for sexual abuse awareness counseling and to set up conjoint counseling between her and the girls, when recommended by the children’s individual therapists. The court ordered the Department to provide family enhancement services to Father, consisting of

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<sup>2</sup> The parties did not raise whether removal from Father was necessary, given he had never been a custodial parent.

counseling for sexual abuse perpetrators and individual counseling. The court ordered Father to have monitored visits in a therapeutic setting, one time per week. It set a six-month review hearing pursuant to section 364 for November 7, 2018.

*C. Father's Section 388 Petitions and Termination of Jurisdiction*

Approximately one month after the jurisdiction and disposition hearing, on June 13, 2018, Father filed “requests to change court orders” as to each child, pursuant to section 388. He requested that the court terminate his family reunification services as to both girls. He explained that the attorney assigned to him had requested he receive services when he did not ask her to do so. He also stated that prior to the allegations, C.L. and F.L. did not wish to visit him; and asked rhetorically, “Why would I force anybody to do something they don’t want to do.” Although Father checked the box stating he was requesting the court make a decision without a hearing, the court set a June 28, 2018 hearing date to address whether an evidentiary hearing should be conducted on Father’s section 388 petitions.<sup>3</sup>

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<sup>3</sup> On June 14, 2018 Father filed amended requests for a change of orders, clarifying that he wanted the court to terminate his family *enhancement* services as opposed to his reunification services. (When a child has been released to the home of one parent, the other parent is not typically granted family reunification services. Instead, it is in the court’s discretion to award the non-custodial parent family enhancement services, which are “designed to enhance the child’s relationship with that parent.” (*In re Destiny D.* (2017) 15 Cal.App.5th 197, 212.)) Father also requested that the court cancel his visits at the therapist’s office with the girls. The court set the hearing on



The Department submitted a report in response to Father's section 388 petitions, recommending that enhancement services continue for Father. In the event Father did not want to participate in such services, however, the Department suggested it would be appropriate to terminate jurisdiction with a custody order providing sole legal and physical custody to Mother, with visits for Father continuing to be monitored in a therapeutic setting.

At the June 28, 2018 hearing, Father was not present, and the court set the evidentiary hearing on Father's section 388 petitions for July 18, 2018, noting its tentative ruling was to grant them. The Department served Father by mail on June 29, 2018 with notice of the July 18, 2018 hearing, and it included an updated recommendation that jurisdiction be terminated with a custody order giving sole legal and physical custody to Mother with monitored visits for Father.

On July 18, 2018, Father was present at court but left before his case was called. His counsel objected to terminating jurisdiction, arguing that Father had not been provided notice of that recommendation. The Department, counsel for the minors, and Mother all argued that Father's section 388 petition should be granted and jurisdiction terminated. The court granted Father's section 388 petitions to terminate his enhancement

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these amended 388 petitions for the same date as the original section 388 petitions, but on June 28, 2018, Father's counsel withdrew the second duplicative section 388 petitions.

Although counsel asserts on appeal that Father's amended 388 petitions included an "implicit request for new counsel," those petitions cannot be interpreted as requesting a new attorney merely because they complain that his attorney requested services that Father did not desire.

services as to both C.L. and F.L. The court then terminated jurisdiction, finding the conditions that justified the assumption of jurisdiction were not likely to exist once supervision was withdrawn. The court found Father had been sent notice of the hearing and the recommendation to terminate jurisdiction and had left before the hearing commenced. The court issued a juvenile custody order providing for sole legal and physical custody to Mother, with monitored visitation for Father one time per month, in a therapeutic setting.

Father timely appealed from both the disposition order<sup>4</sup> and the order terminating jurisdiction.

## DISCUSSION

### *A. Substantial Evidence Supports the Jurisdiction Findings*

The juvenile court assumed jurisdiction under section 300, subdivision (b), (d), and (j), based on its findings that Father sexually abused both C.L. and F.L. In reviewing the juvenile court's jurisdictional findings, "we look to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues

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<sup>4</sup> "While an appeal cannot be taken directly from a dependency court's jurisdictional order, the jurisdictional order is 'appealable by way of a challenge to a dispositional order made subsequent to it.'" (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1490, fn. 4.)

of fact and credibility are the province of the trial court.” (*In re Natalie A.* (2015) 243 Cal.App.4th 178, 184.)

Section 300, subdivision (d), authorizes dependency jurisdiction when the child “has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian.” Penal Code section 11165.1 defines sexual abuse to mean sexual assault or sexual exploitation. Because substantial evidence supports the jurisdiction findings under section 300, subdivision (d), we need not consider whether jurisdiction was also appropriate under subdivisions (b) and (j). (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979 “[a]s long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate”].)

Father’s contention there was not substantial evidence of sexual abuse of C.L. and F.L. is meritless. C.L. and F.L. each testified at the jurisdiction and disposition hearing about the sexual abuse they endured, and the court found each of them “very, very credible.” As the trial court noted, minor inconsistencies between their testimony and the previous accounts they gave law enforcement and the forensic examiners were easily explained by the children’s “fading memory” of events that had happened years earlier, as well as the children’s young ages at both the time of the abuse and the time of trial. We defer to the juvenile court’s credibility determinations, which explicitly took into account the discrepancies in the children’s testimony. (See *In re Manriquez* (2018) 5 Cal.5th 785, 804 [rejecting defendant’s assertion that court should not defer to bench officer’s findings that witness was credible in light of inconsistencies between witness’s declaration and testimony].)

Father suggests the juvenile court should have continued the jurisdiction hearing on its own motion “until therapy was in place to assist the children in sorting out the truth.” As Father implicitly acknowledges, he did not request a continuance of the adjudication hearing for this or any other reason. Under section 352, subdivision (a)(2), “[c]ontinuances shall be granted only upon a showing of good cause.” As Father concedes, he has provided no authority for imposing a duty on the juvenile court to order a continuance sua sponte, and he cannot now claim the court erred in failing to grant a continuance.

We find substantial evidence supported the juvenile court’s jurisdiction findings.

*B. Father Lacks Standing To Challenge Termination of Jurisdiction*

Father also contends the juvenile court erred in terminating jurisdiction over C.L. and F.L. prior to the scheduled six-month review hearing pursuant to section 364, because the Department did not comply with the requirements under section 364 that the Department file a report describing the family’s progress in eliminating the conditions requiring court supervision. (§ 364, subd. (b).) The Department contends Father lacks standing to challenge on appeal the court’s termination of dependency jurisdiction. Given the particular circumstances here, we agree with the Department.

“[O]nly a person aggrieved by a decision may appeal. . . . These rules apply with full force to appeals from dependency proceedings.” (*In re K.C.* (2011) 52 Cal.4th 231, 236 (*K.C.*); *In re D.S.* (2007) 156 Cal.App.4th 671, 673-674 (*D.S.*) [appellant’s “ability to appeal does not confer standing to assert issues when

he is not aggrieved by the order from which the appeal is taken”]; *In re Carissa G.* (1999) 76 Cal.App.4th 731, 734 (*Carissa G.*) [to have standing to appeal a dependency court order, a parent must “establish he or she is a ‘party aggrieved’ to obtain a review of a ruling on its merits”].)

Whether a party has standing to appeal is a question of law. (*Bridgeman v. Allen* (2013) 219 Cal.App.4th 288, 292.) We liberally construe the issue of standing and resolve doubts in favor of the right to appeal. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 948.)

“To be aggrieved or affected, a parent must have a legally cognizable interest that is affected injuriously by the juvenile court’s decision.” (*D.S.*, *supra*, 156 Cal.App.4th at p. 674; accord, *K.C.*, *supra*, 52 Cal.4th at p. 236; *Carissa G.*, *supra*, 76 Cal.App.4th at p. 734.) “Standing to challenge an adverse ruling is not established merely because a parent takes a position on an issue that affects the minor [citation]; nor can a parent raise the minor’s best interest as a basis for standing [citation]. Without a showing that a parent’s personal rights are affected by a ruling, the parent does not establish standing.” (*D.S.*, at p. 674; accord, *Carissa G.*, at p. 736 [“the mere fact a parent takes a position on a matter at issue in a juvenile dependency case that affects his or her child does not alone constitute a sufficient reason to establish standing to challenge an adverse ruling on it”]; *In re Nachelle S.* (1996) 41 Cal.App.4th 1557, 1562 [mother’s contention she had “the right to raise any issue of the minor’s best interests is unpersuasive. By that logic, anyone would have the right to raise issues which do not injure them, eviscerating the ‘aggrieved’ requirement of Code of Civil Procedure section 902”].) Thus, to determine whether a parent is aggrieved

by a finding or order, we must identify the parent's own interest in it. (*K.C.*, at p. 236.)

“All parents, unless and until their parental rights are terminated, have an interest in their children’s ‘companionship, care, custody and management. . . .’” (*K.C.*, *supra*, 52 Cal.4th at p. 236.) “This interest is a “compelling one, ranked among the most basic of civil rights.” “To this end, the law requires the juvenile court to provide reunification services unless a statutory exception applies. [Citations.] In contrast, after reunification services are terminated . . . (as in this case), “the parents’ interest in the care, custody and companionship of the child [is] no longer paramount. Rather, at this point ‘the focus shifts to the needs of the child for permanency and stability. . . .’”” (*In re J.C.* (2014) 222 Cal.App.4th 1489, 1492-1493.) Once a parent’s reunification services are terminated, a parent’s “legal interest in companionship is significantly reduced.” (*Id.* at p. 1493; see *In re A.K.* (2017) 12 Cal.App.5th 492, 499 [because “a parent’s interest in a dependency proceeding is in reunifying with the child,” a parent does not have standing to raise relative placement issues on appeal where the parent’s reunification services have been terminated]; *In re Jayden M.* (2014) 228 Cal.App.4th 1452, 1460 [after termination of reunification services, parents could not challenge dependency court’s ruling denying placement of the minor with relatives]; *Cesar V. v. Superior Court* (2001) 91 Cal.App.4th 1023, 1035 [particularly given father’s stipulation to terminate reunification services, court found issue of placement of children did not affect his interest in reunification with the children and thus he lacked standing to challenge the placement order].)

Here, although Father's parental rights remain intact, his enhancement services were terminated pursuant to his request. Even if he retains some interest in the care, custody, and companionship of his children, he still must show that this interest has been affected by the termination of dependency court jurisdiction. (See *D.S.*, *supra*, 156 Cal.App.4th at p. 674 [to have standing, "appellant must show *how* the denial of a modification petition filed by the mother . . . affected his interests"].)

In *Carissa G.*, the court held a mother lacked standing to appeal from a juvenile court's decision after a jurisdiction hearing to dismiss a petition alleging sexual abuse by the child's father. The court found the "[m]other concededly has a fundamental right to parent minor. But the juvenile court's dismissal of the petition did not impact that right." (*Carissa G.*, *supra*, 76 Cal.App.4th at p. 736.) The court reasoned that "the juvenile court's dismissal of the petition did not alter minor's custody status. Even had the juvenile court sustained the petition, [the Department's] proposed case plan would have altered that status only slightly by limiting father to monitored visitation. The dismissal in fact eliminated the necessity for mother to participate in counseling and parenting classes. Nor is a parent left without a remedy in this situation. Issues concerning custody and visitation can also be dealt with in a family law proceeding." (*Ibid.*; contra, *In re Lauren P.* (1996) 44 Cal.App.4th 763, 770 [adopting minority view that "[a]ny parent who takes the position that dependency jurisdiction is warranted is aggrieved by dismissal of the petition"].)

Similarly, Father has failed to demonstrate how termination of court jurisdiction affects his right to parent his children. Even after the Department asserted in its appellate

brief that he lacked standing, Father made no argument in his reply brief that his personal rights were affected by the termination of dependency court jurisdiction. In fact, Father does not assert that the termination of jurisdiction adversely affected *anyone's* rights and interests.

Father made very clear to the juvenile court that he did not want to participate in any services, and thus no argument can be made that terminating jurisdiction deprived him of the opportunity to participate in court-ordered services to aid in mending his relationship with his daughters. Further, neither below nor on appeal has he argued for any custody arrangement other than the one in place for more than a decade prior to dependency court involvement – namely, residence solely with Mother. At neither the disposition hearing nor the final hearing did Father ever object to the court's orders that his visits be monitored in a therapeutic setting, and Father does not suggest on appeal that he is aggrieved by this visitation order.

In sum, Father has failed to demonstrate that the termination of the case affected his rights and legally cognizable interests in any way. Because he is not aggrieved by the order terminating dependency jurisdiction, this court is without jurisdiction to consider his appeal from this order.



## **DISPOSITION**

The order declaring C.L. and F.L. dependent children is affirmed. The appeal from the order terminating jurisdiction is dismissed.

STONE, J.\*

We concur:

ZELON, Acting P. J.

SEGAL, J.

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\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.